

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PENDLETON DIVISION

CHRISTOPHER LEE  
McINTURFF,

Petitioner,

Civil No. 10-367-SU

v.

ORDER

WARDEN THOMAS

Respondent.

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HAGGERTY, District Judge:

Magistrate Judge Sullivan issued a Findings and Recommendation [5] recommending that the petition in this matter should be dismissed without prejudice, and that petitioner's Motion for Appointment of Counsel [2] should be denied as moot.

No objections were filed to this Findings and Recommendation, and the case was referred to me. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b). When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation of the Magistrate. *Campbell v. United States District Court*, 501 F.2d 196 (9th Cir. 1974).

No clear error appears on the face of the record. This court adopts the Findings and Recommendation.

**CONCLUSION**

The petition in this matter is dismissed without prejudice. Petitioner's Motion for Appointment of Counsel [2] is denied as moot. This court also adopts the Magistrate Judge's recommendation to decline to issue a Certificate of Appealability, on the basis that petitioner Christopher Lee McInturff has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

Dated this 4 day of October, 2010.

/s/ Ancer L. Haggerty  
Ancer L. Haggerty  
United States District Judge